

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:12-cv-735-RJC  
(3:05-cr-227-RJC-DCK-1)**

AVERY SHANDEL JAMES, )  
                            )  
Petitioner,             )  
                            )  
vs.                      )                          ORDER  
                            )  
UNITED STATES OF AMERICA, )  
                            )  
Respondent.             )  
                            )  
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**THIS MATTER** is before the Court on Respondent's unopposed "Motion to Hold Case in Abeyance" filed on September 1, 2017, (Doc. No. 25). Respondent seeks to stay this case pending the Fourth Circuit's decision in United States v. Wheeler, Case No. 16-6073. Respondent's motion will be denied as moot because the Court stayed this case on March 21, 2016, pending the Fourth Circuit's consideration of United States v. Surratt until "further order of the Court." (Doc. No. 21 at 2). Although the Fourth Circuit dismissed Surratt as moot, 855 F.3d 218, that case is presently pending before the United States Supreme Court on certiorari review, Case No. 17-5255, and this Court has not lifted the stay in the instant matter.

**IT IS, THEREFORE, ORDERED** that:

1. Petitioner's "Motion to Hold Case in Abeyance," (Doc. No. 25), is **DENIED** as moot.

Signed: September 18, 2017

  
Robert J. Conrad, Jr.  
United States District Judge